IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 35459 of 2007(U)

PETITIONER:

RUBY A., W/O SHANAVAZ,
THAYYISSERIL, KOTTUKULANGARA,
KAYAMKULAM P.O.

BY ADV. SRI.RASHEED C.NOORANAD

RESPONDENTS:

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1. SOUTH INDIA BANK, REGIONAL OFFICE,
THIRUVANANTHAPURAM, REP. BY THE CHIEF MANAGER.

2. DISTRICT COLLECTOR,
COLLECTRATE, ALAPPUZHA.

3. DISTRICT SUPPLY OFFICER,
ALAPPUZHA.

4. SHIBU KUMAR, S/O C.R.NARAYANAN,
VRINDAVAN, CHEPPAD P.O., HARIPAD,
ALAPPUZHA, PIN 690507.

BY ADV. SRI.GEORGE VARGHESE, SC, SOUTH INDIAN BANK
SRI K. PRABHAKARAN, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C) 35459 OF 2007

Dated: December 3, 2007

JUDGMENT

Petitioner is admittedly a tenant of a building, the landlord of which had incurred certain liabilities to the 1st respondent bank. The default committed by the landlord lead to the initiation of proceedings under the Securitisation and Re-construction of Financial Assets and Enforcement of Security Interest Act. As the default continued, after complying with all procedural requirements, the bank has taken physical possession of the property. The petitioner submits that he is running a ration shop in the building and, therefore, if he is evicted from the premises all on a sudden, that will affect the public distribution system in the area. The petitioner seeks that the bank be directed to permit his occupation for a reasonable time so that he can make alternate arrangement for the shifting of the ARD.

2. I heard the learned counsel for the 1st respondent also. On behalf of the bank, the counsel submits that a portion of the building was occupied by the landlord and that the landlord has been evicted. Therefore, the petitioner must have full knowledge of the developments and on this basis the counsel for the bank submits that there is no bona fides in the prayer made by the petitioner.

3. But, irrespective of all the controversy that was raised, I am inclined to hold that since the petitioner is running a ration shop in the building, the petitioner can be allowed to continue the ration shop in the building for a short time for enabling her to make alternate arrangements.

4. In this view of the matter I am inclined to dispose of the writ petition with the following directions:-

That the bank will be free to proceed with the action it has already taken. However, in the meanwhile the petitioner would be permitted to continue the occupation of the premises till 1st of January, 2008. It is made clear that this order is passed despite the fact that the petitioner has no legal right to claim occupation of the building and it is only for enabling the petitioner to continue the ration shop and to make alternate arrangements for shifting the shop before 11.1.2008. I also record the undertaking that the petitioner made before this court that she will vacate from the premises on or before 1.1.2008.

The writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

mt/-